

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: LOWREY et al.

Group Art Unit: 3661

Application No.: 10/614,665

Examiner: Broadhead, B.

Filed: July 7, 2003

Atty. Docket No.: 0308816.0156

Title: INTERNET-BASED SYSTEM FOR MONITORING VEHICLES

DECLARATION OF APPLICANTS' REPRESENTATIVE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

1. I am over the age of eighteen and competent to make the present Declaration.
2. I have represented and currently represent the assignee for the captioned patent application before the U.S. Patent and Trademark Office.
3. On April 30, 2008, I sent an e-mail to Chuck Myers, who is a named inventor on the captioned application, to his last known e-mail address (chuck@stalero.com). The e-mail included an antedating declaration (Declaration under 37 CFR § 1.131) and supporting exhibits for the captioned application for Mr. Myers review and execution. Exhibit A attached hereto includes a copy of the e-mail and the attachments as sent to Mr. Myers on April 30, 2008.

4. On May 2, 2008, Mr. Myers contacted me by phone to discuss the antedating declaration and other information e-mailed to him on April 30, 2008 (see above - paragraph 3). Mr. Myers told me that he needed to check with someone with respect to executing the declaration and would then get back in touch with me.

5. On May 14, 2008, I sent a follow-up e-mail to Mr. Myers requesting a status update on his review of the antedating declaration and other information e-mailed to him on April 30, 2008 (see above - paragraph 3). I received no response to this follow-up e-mail, a copy of which is attached as Exhibit B.

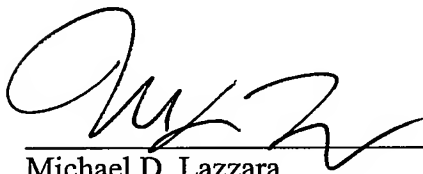
6. On May 30, 2008, I sent an additional follow-up e-mail to Mr. Myers requesting an opportunity to call him to discuss the antedating declaration and other information e-mailed to him on April 30, 2008 (see above - paragraph 3). I received no response to this e-mail, a copy of which is attached as Exhibit C.

7. On June 16, 2008, I called Mr. Myers and left him a voice mail message requesting a status update on his review of the declaration and other information e-mailed to him on April 30, 2008 (see above - paragraph 3). I received no response to this voice mail message.

8. To date I have received no further telephone calls, e-mail correspondence, or other communications from Mr. Myers regarding the antedating declaration and other information e-mailed to him on April 30, 2008 (see above – paragraph 3).

9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further

that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.



Michael D. Lazzara
Reg. No. 41,142

7/28/2008

Date

Exhibit A

Steigerwalt, Carole L.

From: Lazzara, Michael
Sent: Wednesday, June 25, 2008 11:50 AM
To: Steigerwalt, Carole L.
Subject: FW: Assistance Requested with Patent Application (K&L Gates File Ref. 0308816.00156)
Attachments: Declaration.pdf

From: Lazzara, Michael
Sent: Wednesday, April 30, 2008 2:41 PM
To: 'chuck@stalero.com'
Subject: Assistance Requested with Patent Application (K&L Gates File Ref. 0308816.00156)

Dear Mr. Myers:

I am a patent attorney working with Hughes Telematics ("HTI") on a patent application in which you are a named inventor.

In connection with preparing a response to certain rejections that the U.S. Patent and Trademark Office has asserted against the application, I was hoping to get your assistance with reviewing and executing the attached declaration. In summary, the declaration provides evidence of how the invention was originally conceived, developed and reduced to practice by you and the other inventors.

If the declaration and attached exhibits are acceptable to you, please sign and date the declaration where indicated and then return it to me via fax (412/355-6501) or e-mail (e.g., scanned into a .pdf).

Also, please feel free to call me with any questions. We look forward to hearing from you.

Thanks.
Mike



Declaration.p
df (2 MB)

Michael D. Lazzara, Esq.
K&L Gates
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222-2312
(412) 355-8994 (voice)
(412) 355-6501 (fax)
michael.lazzara@klgates.com

This electronic message contains information from the law firm of K&L Gates that may be privileged and confidential. The information is intended for the use of the addressee(s) only. If you are not an addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please contact the sender at the number listed above.

For more information about K&L Gates, visit us at www.klgates.com.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3661	:	
	:	
Examiner: Brian J. Broadhead	:	INTERNET-BASED SYSTEM
	:	FOR MONITORING VEHICLES
Applicants: Lowrey et al.	:	
	:	
Serial No.: 10/614,665	:	
	:	
Filing Date: July 7, 2003	:	Confirmation No. 7577
	:	

DECLARATION UNDER 37 C.F.R. § 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

We declare as follows:

1. We are named inventors of the captioned patent application ("Subject Application").
 2. We conceived and reduced to practice the invention described and claimed in the Subject Application prior to May 1, 2000, in association with performing work for NetworkCar.com as employees and/or as independent agents serving as consultants for NetworkCar.com.
-

3. The invention described and claimed in the Subject Application was assigned by us to NetworkCar.com, which assignment was recorded with the United States Patent and Trademark Office on July 7, 2003, at Reel 014273, Frame 0607.

4. In support of the reduction to practice date in paragraph 2, we attach as Exhibit 1 a photograph of an embodiment of the invention installed in a vehicle for collecting and communicating data associated with operation of the vehicle, among other functions.

5. In further support of the reduction to practice date in paragraph 2, we attach as Exhibit 2 a photograph of an embodiment of the invention installed and operating in a vehicle and communicating data to a laptop computer system.

6. In further support of the reduction to practice date in paragraph 2, we attach as Exhibit 3 an e-mail sent by inventor Bruce Lightner to inventor Chuck Myers describing data collection and data communication in association with operation of certain embodiments of the invention. In particular, the e-mail states that, "I'm now taking OBD-II data from my 1999 Suburban, sending it via the BellSouth network into our IAS gateway, which places it on the Web at the URL: <http://lightner.net/obd>." Although certain dates on the e-mail of Exhibit 3 have been redacted, the data collection and data communication functions of the embodiment of the invention described in the e-mail occurred prior to May 1, 2000. In addition, the e-mail illustrated in Exhibit 3 was generated and sent prior to May 1, 2000.

7. In further support of the reduction to practice date in paragraph 2, attached as Exhibit 4 is a screen capture illustrating a web interface displaying derived diagnostic information (e.g., odometer readings) on a web site dedicated to presenting information associated with a vehicle. Although certain dates on the screen capture of Exhibit 4 have been

redacted, the web interface and web site as shown were incorporated in connection with reduction to practice of the invention prior to May 1, 2000.

8. In further support of the reduction to practice date in paragraph 2, we attach as Exhibit 5 an excerpt from a presentation which describes various component aspects of certain embodiments of the invention described and claimed in the Subject Application. In particular, Exhibit 5 includes photographs of (1) a RIM radio modem and OBD-II interface; (2) an antenna; and (3) an OBD-II connector, each of which may be employed as components of certain embodiments of the invention. Although the date on the presentation has been redacted, the components depicted in Exhibit 5 were implemented as part of a "Mobiscan II" embodiment of the invention reduced to practice prior to May 1, 2000.

9. In further support of the reduction to practice date in paragraph 2, we attach as Exhibit 6 an excerpt from a presentation which illustrates various aspects of certain embodiments of the invention described and claimed in the Subject Application. In particular, Exhibit 6 includes a schematic architecture diagram illustrating various communication aspects of certain embodiments of the invention. Although the date on the excerpt has been redacted, the illustrated communications architecture was employed in connection with reduction to practice of the invention prior to May 1, 2000.

10. We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Larkin Hill Lowrey

Date _____

Matthew J. Banet

Date _____

Bruce Lightner

Date _____

Diego Borrego

Date _____

Chuck Myers

Date _____

Exhibit 1

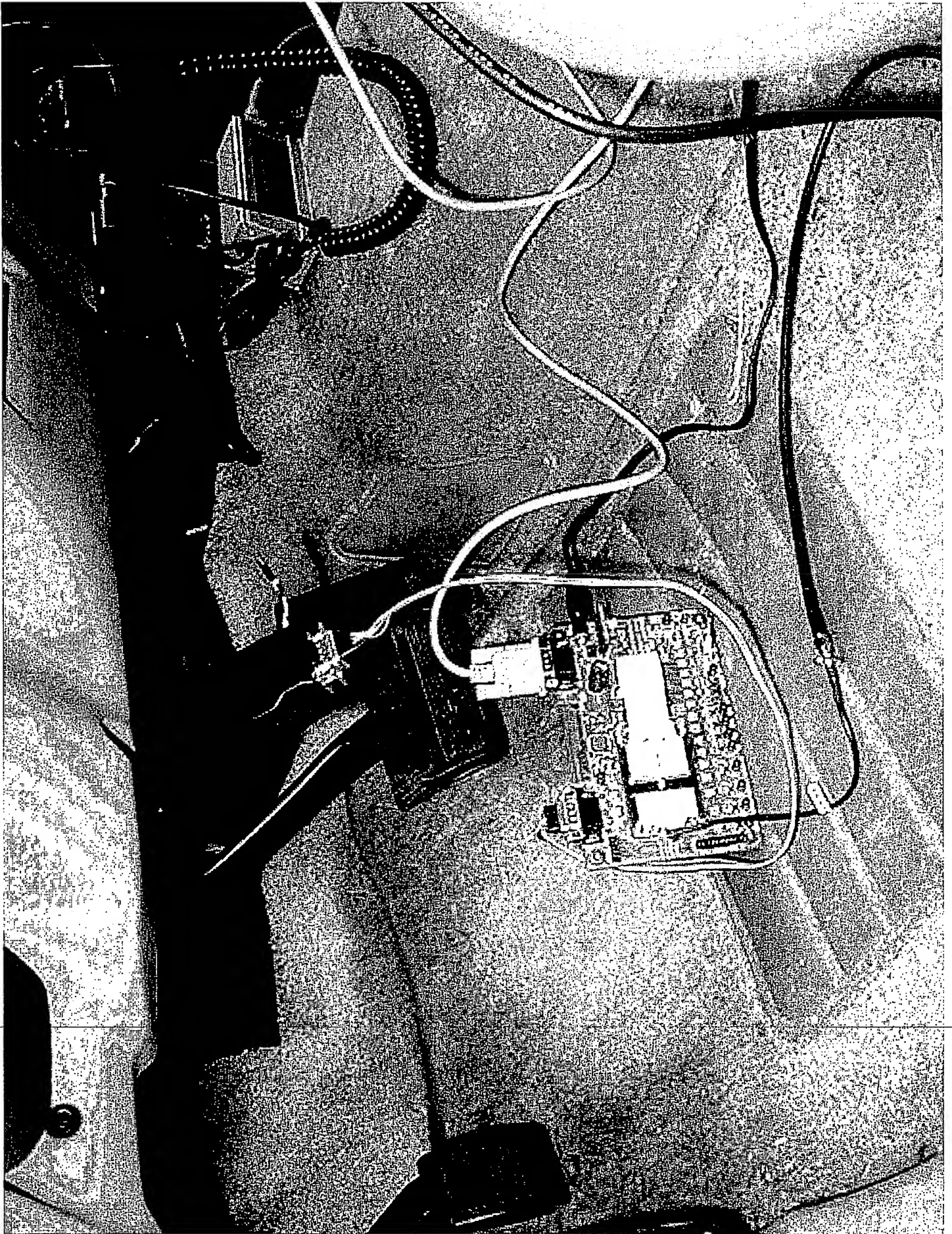


Exhibit 2



Exhibit 3

From:

1890 P.001/003

From: steve@freyder.net
Return-Path: <steve@freyder.net>
Received: from mail.freyder.net (dt082nfa.san.xx.com [204.210.24.250])
by mail.lightner.net (8.8.7/8.8.6) with SMTP id PAA15533
for <lightner@lightner.net>; 15:10:23 -0800
Received: from freyder.net (frey4150.freyder.net [10.4.0.41])
by mail.freyder.net (8.8.7/8.8.6) with SMTP id PAA13183
for <lightner@lightner.net>; 15:03:01 -0800
Message-ID: <38712CA9.45E872D9@freyder.net>

From: "Stephen D. Freyder" <steve@freyder.net>
X-Mailer: Mozilla 4.61 [en] (WinNT; I)
X-Accept-Language: en
MIME-Version: 1.0
To: "Bruce D. Lightner" <lightner@lightner.net>
Subject: Re: Real ODB-II Data
References: <3871247B.D3D65DD8@lightner.net>
Content-Type: text/plain; charset=us-ascii
Content-Transfer-Encoding: 7bit
Status: RD
X-Status:
X-Keywords:
X-UID: 279

The space after the comma wasn't there in the original - but might not matter to their scraper...

"Bruce D. Lightner" wrote:

> Chuck,
>
> I'm now taking data ODB-II data from my 1999 Suburban, sending it via the
> BellSouth network into our IAS gateway, which places it on the Web at the URL:
>
> http://lightner.net/obd
>
> The data should be in the agreed upon data format. Update rate is every two
> minutes.
>
> Here is sample data:
>
> 173000
> 00, 3217029524
> 03, 257
> 04, 2
> 05, 53
> 06, 128
> 07, 128
> 08, 128
> 09, 128
> 0b, 102
> 0c, 0
> 0d, 0
> 0e, 128
> 0f, 59
> 10, 245
> 11, 0
> 12, 4
> 13, 51
> 14, 9088
>

> Bruce
>
> --
> Bruce D. Lightner
> Lightner Engineering

From:

#890 P.002/003

> 8551 La Jolla Shores Drive
> La Jolla, California 92037-3044
> Voice: +1-858-551-4011 FAX: +1-858-551-0777
> Home: +1-858-551-0770
> Email: lightner@lightner.net
> URL: <http://www.lightner.net/lightner/bruce/>

Exhibit 4

Network Car Fleet Management - Microsoft Internet Explorer

Welcome Carlos Morales

[Your Car]
Mercury Cougar
1997 - Black
320 KDS

Imagine yourself in a Mercury

Full Diagnostic Checkup

Date	Odometer	Fuel System Status	Calculated Load Value	Engine Coolant Temperature	Short Term Fuel Bank 1	Long Term Fuel Bank 1	Short Term Fuel Bank 2	Long Term Fuel Bank 2	Fuel Pressure	Intake Manifold Pressure	Engine RPM	Vehicle Speed
10:32:00 AM	3620	512	7	195	122	0	0	0	0	35	694	0
10:31:00 AM	3620	512	7	195	127	0	0	0	0	79	2265	23
10:30:00 AM	3620	512	6	195	126	0	0	0	0	89	2621	55
10:29:00 AM	3620	512	12	195	129	0	0	0	0	22	1546	66
10:28:00 AM	3620	512	54	195	136	0	0	0	0	65	1890	72
10:27:00 AM	3618	512	24	195	128	0	0	0	0	42	1768	66
10:26:00 AM	3618	512	22	195	128	0	0	0	0	41	1938	72
10:24:00 AM	3616	512	67	194	120	0	0	0	0	83	1890	70
10:22:00 AM	3614	512	43	195	123	0	0	0	0	73	1943	72
10:21:00 AM	3614	512	43	195	123	0	0	0	0	73	1943	72

PDF Downloads Diagnostic Codes Clear History

Close this window

Internet Zone

Exhibit 5

Mobiscan II Prototype

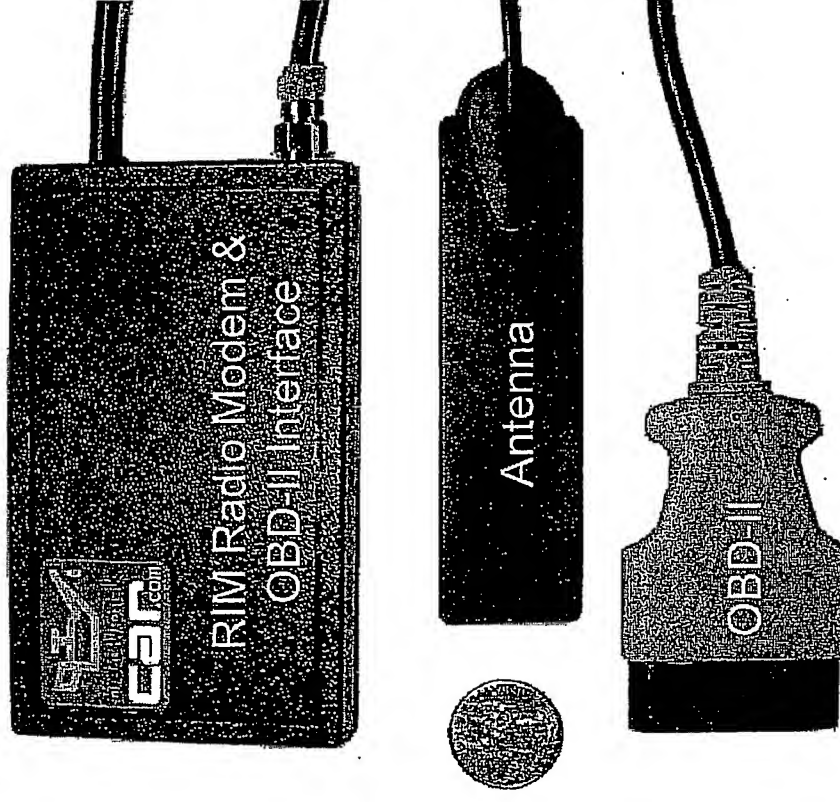
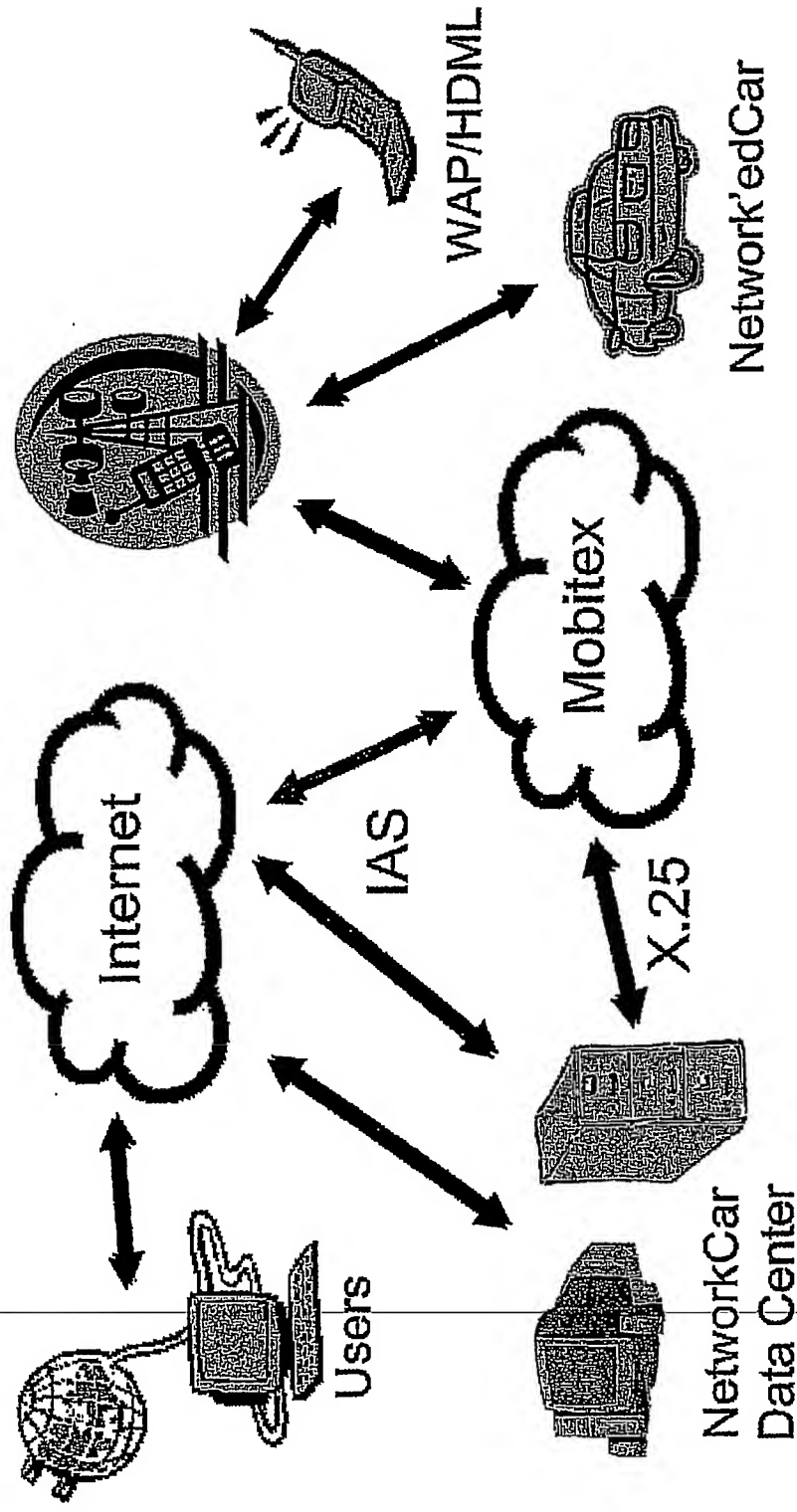


Exhibit 6

NetworkCar and Mobitex



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3661	:	
	:	
Examiner: Brian J. Broadhead	:	INTERNET-BASED SYSTEM
	:	FOR MONITORING VEHICLES
Applicants: Lowrey et al.	:	
	:	
Serial No.: 10/614,665	:	
	:	
Filing Date: July 7, 2003	:	Confirmation No. 7577
	:	

DECLARATION UNDER 37 C.F.R. § 1.131

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P.O. Box 1450
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-

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Larkin Hill Lowrey

Date _____

Matthew J. Banet

Date _____

Bruce Lightner

Date _____

Diego Borrego

Date _____

Chuck Myers

Date _____

Exhibit 1

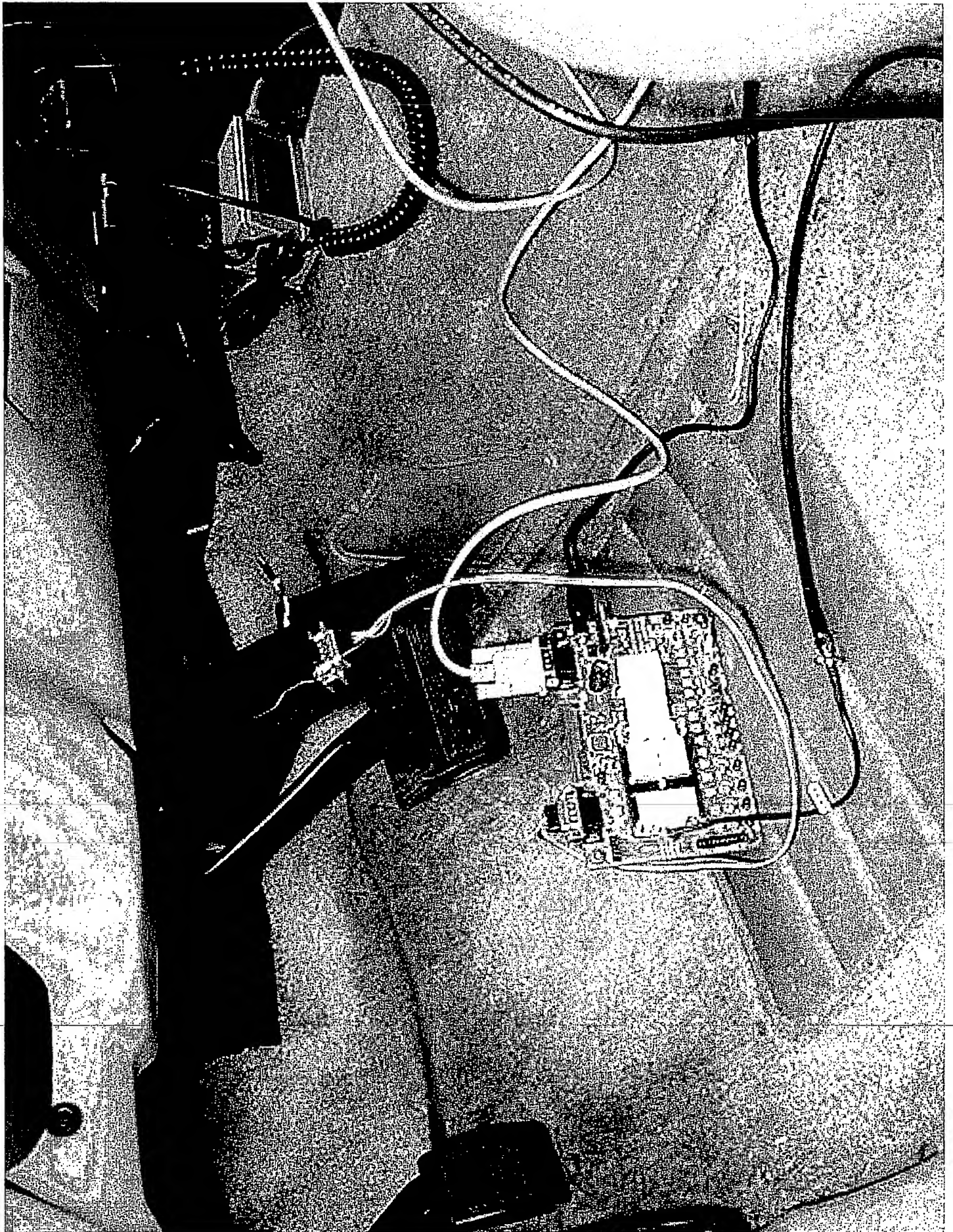


Exhibit 2



Exhibit 3

From:

#890 P.001/003

From: steve@freyder.net
Return-Path: <steve@freyder.net>
Received: from mail.freyder.net (dt082nfa.san.rr.com [204.210.24.250])
by mail.lightner.net (8.8.7/8.8.6) with ESMTP id PAA15533
for <lightner@lightner.net>; 15:10:23 -0800
Received: from freyder.net (frey4150.freyder.net [10.4.0.41])
by mail.freyder.net (8.8.7/8.8.6) with ESMTP id PAA13183
for <lightner@lightner.net>; 15:03:01 -0800
Message-ID: <38712CA9.45E872D9@freyder.net>

From: "Stephen D. Freyder" <steve@freyder.net>
X-Mailer: Mozilla 4.61 [en] (WinNT; I)
X-Accept-Language: en
MIME-Version: 1.0
To: "Bruce D. Lightner" <lightner@lightner.net>
Subject: Re: Real ODB-II Data
References: <38712478.D3D55DD8@lightner.net>
Content-Type: text/plain; charset=us-ascii
Content-Transfer-Encoding: 7bit
Status: RO
X-Status:
X-Keywords:
X-UID: 279

The space after the comma wasn't there in the original - but might not matter to their scraper...

"Bruce D. Lightner" wrote:

> Chuck,
>
> I'm now taking data ODB-II data from my 1999 Suburban, sending it via the
> BellSouth network into our IAS gateway, which places it on the Web at the URL:
>
> http://lightner.net/odb
>
> The data should be in the agreed upon data format. Update rate is every two
> minutes.
>
> Here is sample data:
>
> 173000
> 00, 3217029524
> 03, 257
> 04, 2
> 05, 53
> 06, 128
> 07, 128
> 08, 128
> 09, 128
> 0b, 102
> 0c, 0
> 0d, 0
> 0e, 128
> 0f, 59
> 10, 245
> 11, 0
> 12, 4
> 13, 51
> 14, 9088

> Bruce
>
> --
> Bruce D. Lightner
> Lightner Engineering

From:

#890 P.002/003

> 8551 La Jolla Shores Drive
> La Jolla, California 92037-3044
> Voice: +1-858-551-4011 FAX: +1-858-551-0777
> Home: +1-858-551-0770
> Email: lightner@lightner.net
> URL: <http://www.lightner.net/lightner/bruce/>

Exhibit 4

Network Car Fleet Management Microsoft Internet Explorer

Welcome: Carlos Morales

[Your Car]
Mercury Cougar
1997 Black
320 KDS

Imagine yourself in a Mercury

Full Diagnostic Checkup

Date	Odometer	Fuel System Status	Calculated Load Value	Engine Coolant Temperature	Short Term Fuel Bank 1	Long Term Fuel Bank 1	Short Term Fuel Bank 2	Long Term Fuel Bank 2	Fuel Pressure	Intake Manifold Pressure	Engine RPM	Vehicle Speed
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10:31:00 AM	3620	512	7	195	127	0	0	0	0	79	2265	23
10:30:00 AM	3620	512	6	195	126	0	0	0	0	89	2621	55
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10:22:00 AM	3614	512	43	195	123	0	0	0	0	73	1943	72
10:21:00 AM	3614	512	43	195	123	0	0	0	0	73	1943	72

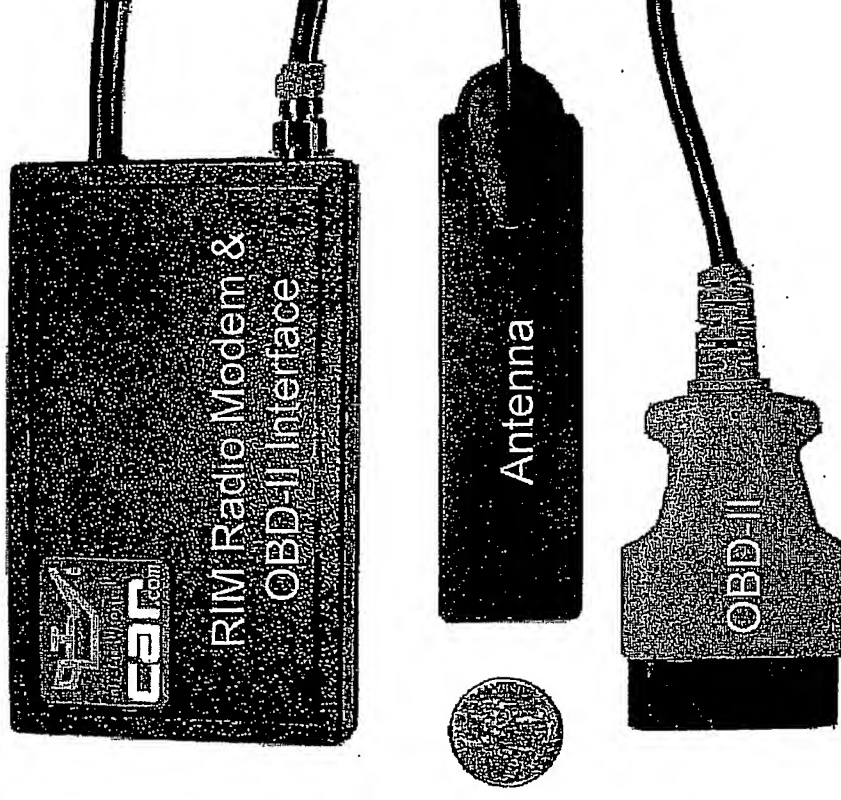
PDF Downloads Diagnostic Codes Clear History

Close this window

Internet Zone

Exhibit 5

Mobiscan II Prototype



NetworkCar Proprietary Information

Page 7



Exhibit 6

NetworkCar and Mobitex

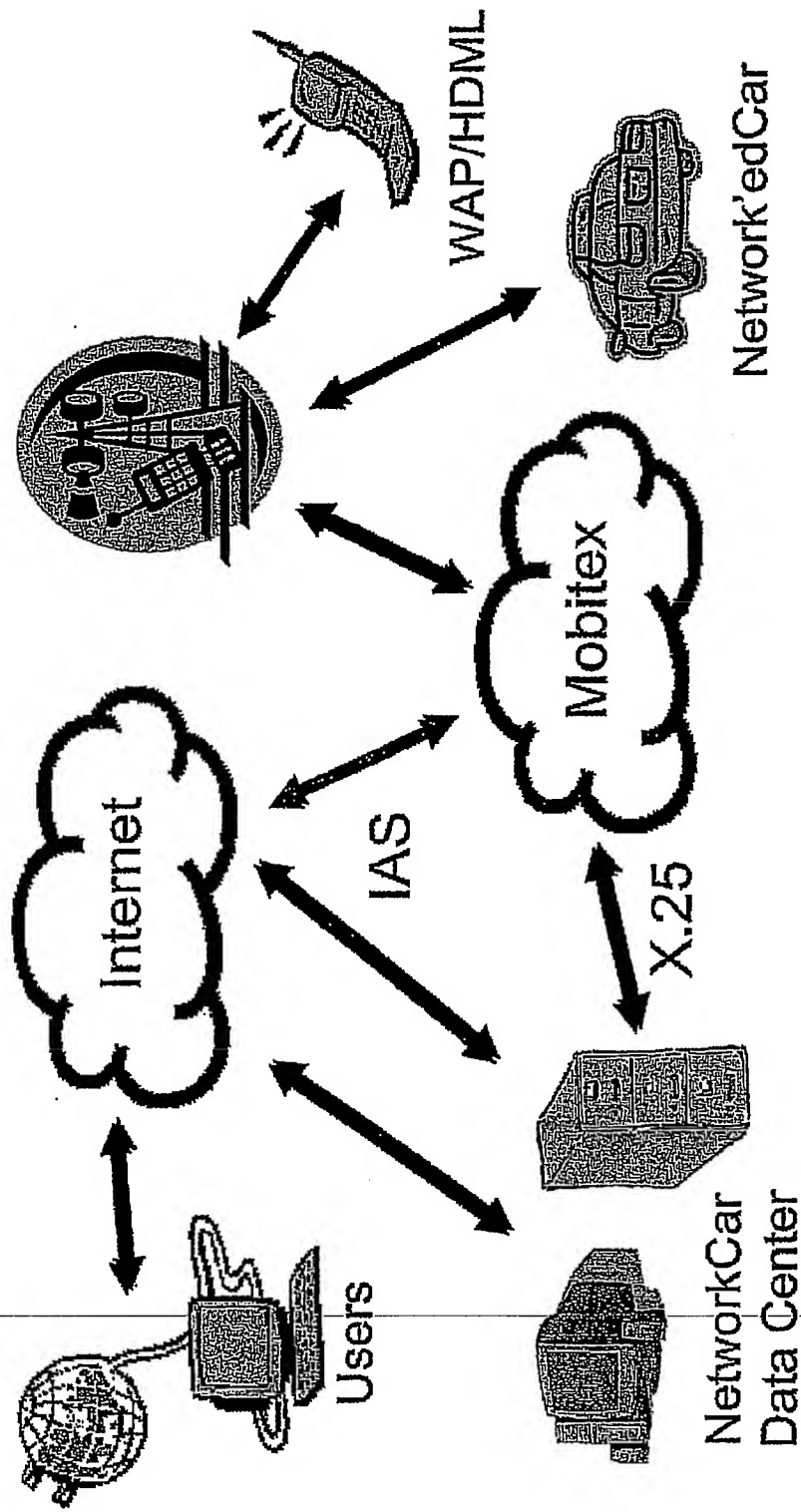


Exhibit B

Steigerwalt, Carole L.

From: Lazzara, Michael
Sent: Wednesday, May 14, 2008 5:16 PM
To: 'chuck@stalero.com'
Subject: FW: Assistance Requested with Patent Application (K&L Gates File Ref. 0308816.00156)
Attachments: Declaration.pdf

Hi, Chuck,

Just following up on the telephone conversation we had the week before last regarding the attached declaration. At the time you had mentioned wanting to make a call concerning the declaration.

I wanted to check back to see if you now have the information you need - feel free to call me to discuss. I look forward to hearing from you.

Thanks.
Mike

Michael D. Lazzara, Esq.
K&L Gates
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222-2312
(412) 355-8994 (voice)
(412) 355-6501 (fax)
michael.lazzara@klgates.com

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For more information about K&L Gates, visit us at www.klgates.com.

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Dear Mr. Myers:

I am a patent attorney working with Hughes Telematics ("HTI") on a patent application in which you are a named inventor.

In connection with preparing a response to certain rejections that the U.S. Patent and Trademark Office has asserted against the application, I was hoping to get your assistance with reviewing and executing the attached declaration. In summary, the declaration provides evidence of how the invention was originally conceived, developed and reduced to practice by you and the other inventors.

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Also, please feel free to call me with any questions. We look forward to hearing from you.

Thanks.
Mike



Declaration.p
df (2 MB)

Michael D. Lazzara, Esq.
K&L Gates
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222-2312
(412) 355-8994 (voice)
(412) 355-6501 (fax)
michael.lazzara@klgates.com

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For more information about K&L Gates, visit us at www.klgates.com.

Exhibit C

Steigerwalt, Carole L.

From: Lazzara, Michael
Sent: Friday, May 30, 2008 9:37 AM
To: 'chuck@stalero.com'
Subject: FW: Assistance Requested with Patent Application (K&L Gates File Ref. 0308816.00156)
Attachments: Declaration.pdf

Chuck,

Checking in again - can I give you a call sometime in the next few days to discuss this?

We're under some time pressure to file a response (including the executed declaration) with the patent office.

Thanks.
Mike

Michael D. Lazzara, Esq.
K&L Gates
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222-2312
(412) 355-8994 (voice)
(412) 355-6501 (fax)
michael.lazzara@klgates.com

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For more information about K&L Gates, visit us at www.klgates.com.

From: Lazzara, Michael
Sent: Wednesday, May 14, 2008 5:16 PM
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michael.lazzara@klgates.com

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From: Lazzara, Michael
Sent: Wednesday, April 30, 2008 2:41 PM
To: 'chuck@stalero.com'
Subject: Assistance Requested with Patent Application (K&L Gates File Ref. 0308816.00156)

Dear Mr. Myers:

I am a patent attorney working with Hughes Telematics ("HTI") on a patent application in which you are a named inventor.

In connection with preparing a response to certain rejections that the U.S. Patent and Trademark Office has asserted against the application, I was hoping to get your assistance with reviewing and executing the attached declaration. In summary, the declaration provides evidence of how the invention was originally conceived, developed and reduced to practice by you and the other inventors.

If the declaration and attached exhibits are acceptable to you, please sign and date the declaration where indicated and then return it to me via fax (412/355-6501) or e-mail (e.g., scanned into a .pdf).

Also, please feel free to call me with any questions. We look forward to hearing from you.

Thanks.
Mike



Declaration.p
df (2 MB)

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